

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

McDAVID OYEKWE,)
v.)
Plaintiff,)
FEDERAL EXPRESS CORPORATION)
Defendant.)
CASE NO. _____

NOTICE OF REMOVAL

Defendant Federal Express Corporation (“FedEx”), pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, respectfully removes the case captioned in the District Court of Dallas County, Texas as *McDavid Oyekwe vs. Federal Express Corporation*, Case No. DC 21-04561 (the “State Court Action”) to the United States District Court for the Northern District of Texas, Dallas Division.

Removal of the State Court Action is based on this Court's diversity jurisdiction under 28 U.S.C. §§ 1332 and 1441. Removal is proper for the following reasons:

I. FedEx's Notice Of Removal is Timely Filed

1. On April 15, 2021, Plaintiff McDavid Oyekwe, (“Plaintiff”), filed his Original Petition in the District Court of Dallas County, Texas, styled *McDavid Oyekwe v. Federal Express Corporation*, Case No. DC 21-04561.
2. Plaintiff served FedEx with the State Court Action via certified mail to FedEx’s registered agent of process on April 26, 2021.

3. True and complete copies of the Original Petition, Summons, and all other process and pleadings served upon FedEx in the State Court Action are attached hereto. *See Exhibit 1.* Plaintiff has not served upon FedEx any other process, pleadings, or orders. *See 28 U.S.C. §1446(a).*

4. This Notice of Removal is filed within thirty (30) days of service of the Summons and Original Petition on FedEx and, therefore, is timely. *See 28 U.S.C. §1446(b)(2).*

II. Diversity of Citizenship Exists Between All Parties

5. Plaintiff is a citizen of the state of Texas for diversity purposes, as he “is an individual who lives in Dallas, Dallas County, Texas.” *See Exhibit 1 – Original Pet. ¶ 1.*

6. FedEx is incorporated in Delaware and has its principal place of business in Memphis, Tennessee. *See Exhibit 2, Declaration of Gina Pehlman, ¶ 3.*

7. Because FedEx is incorporated in the state of Delaware and has its principal place of business in the State of Tennessee, it is a citizen of Delaware and Tennessee for diversity purposes. *See 28 U.S.C. 1332(c)(1).* FedEx is not a citizen of Texas.

8. Complete diversity between the parties exists because Plaintiff is a citizen of Texas, and FedEx is a citizen of Delaware and Tennessee. *See Exhibit 1 – Original Pet. ¶ 1; Exhibit 2 ¶ 3.*

III. The Amount In Controversy Exceeds \$75,000.

9. In his Original Petition, Plaintiff “seeks monetary relief over \$200,000 but not more than \$1,000,000.” *See Exhibit 1 – Original Pet. ¶ 4.*

IV. Venue is Appropriate in this Court

10. The State Court Action is currently pending in the District Court of Dallas County, Texas, which is located within the United States District Court for the Northern District of Texas, Dallas Division. *See 28 U.S.C. § 116(a).*

11. Thus, venue is proper in this Court because it is the “district and division embracing the place where such [State Court] [A]ction is pending.” *See* 28 U.S.C. § 1441(a).

V. FedEx Provided Appropriate Notice of Removal

12. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice of Removal is being submitted for filing with the Clerk of the District Court of Dallas County, Texas, and is being served upon counsel of record for Plaintiff.

13. By filing this Notice of Removal, FedEx does not waive any defects in service of process, venue, or personal jurisdiction, nor does it waive any other defenses available to it under applicable state law and/or the Federal Rules of Civil Procedure.

WHEREFORE, for the foregoing reasons, Defendant Federal Express Corporation respectfully gives notice that the State Court Action pending in the District Court of Dallas County, Texas, is removed to this Court.

Dated: This the 12th day of May, 2021.

Respectfully Submitted,

By: /s/ Dawn Doherty
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Attorneys for Federal Express Corporation

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document was sent via email and FedEx standard delivery, this 12th day of May, 2021 to:

McDavid Oyekwe
3314 Seabreeze Drive
Rowlett, TX 75088
Phone: 469-471-4337
Email: mooyekwe@yahoo.com

s/ Dawn Doherty
Dawn K. Doherty